

REMARKS

The Election/Restriction Requirement

Claims 1-35 are pending in the application and are subject to an election/restriction requirement. The Examiner asserts that claims 1-34 (Group I) are directed to an invention that is patentably distinct from the invention recited in claim 35 (Group II). Applicants have elected to proceed with the examination of claims 1-34 (Group I).

The Examiner also requires Applicants to elect, for examination purposes, a single polypeptide species of polypeptide set forth in SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 5, SEQ ID NO: 6, SEQ ID NO: 8, SEQ ID NO: 9, SEQ ID NO: 10, or SEQ ID NO: 13. Applicants have elected SEQ ID NO: 2 without traverse.

Finally, the Examiner requires Applicants to elect a single disclosed species of excipient from among those listed in claim 8, and a single disclosed species of diluent from among those listed in claim 10. Applicants traverse this requirement for the following reason.

The M.P.E.P. § 808.1 states:

Election of species should not be required if the species claimed are considered clearly unpatentable (obvious) over each other...In all applications in which no species claims are present and a generic claim recites such a multiplicity of species that an unduly extensive and burdensome search is required, a requirement for an election of species should be made prior to a search of the generic claim.

Applicants' invention is an antagonist of glucose-dependent insulinotropic polypeptide (GIP), which can be administered to a patient to, e.g., improve glucose tolerance, or to prevent, inhibit, or reduce obesity or diabetes mellitus. The addition of an excipient or a diluent to the inventive composition, as is recited in present claims 8 and 10, respectively, defines an embodiment of the invention. A search of these embodiments would not impose an unreasonable

or undue burden upon the Examiner. For this reason, the election/restriction requirement of claims 8 and 10 should be withdrawn.

CONCLUSION

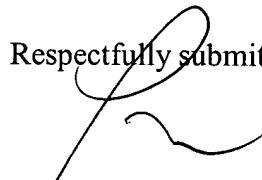
Applicants respectfully request that the election requirement with respect to claims 8 and 10 be withdrawn and that all of the excipients and diluents recited in claims 8 and 10, respectively, be examined together. Applicants further submit that the election requirement is unnecessary, as a complete search of the subject matter of Applicants' invention recited in claims 8 and 10, in the absence of a single elected excipient or diluent species, would not be burdensome for the Examiner. For this reason, Applicants traverse the restriction requirement and request its withdrawal with respect to these claims.

Enclosed is a petition to extend the period for replying for two months, to and including February 5, 2004 and a check in the amount of \$210.00 for the required extension fee.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Date: Feb. 5, 2004

Respectfully submitted,


Paul T. Clark
Reg. No. 30,162

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045